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REMARKS

The Applicant's below-named representative would like to thank Examiner Esther Okezie for the helpful and courteous discussion of the issues in the application held on March 22, 2007. This discussion focused on the dished-out characterization of the working surface of the mortarboard according to the present invention, and how the prior art fails to disclose or suggest a mortarboard having a dished-out working surface according to the presently claimed invention. The substance of this discussion is summarized and further expanded upon in the following remarks.

The outstanding Office Action includes a rejection of claims 29-35, 37-50, 52-57, 59, and 60 under 35 U.S.C. § 103(a) over U.S. Patent No. 3,790,201 to Morsilli and U.S. Patent No. D-113,023 to Tabb. This rejection is traversed.

The invention related to a mortarboard configured for operative use by masons and brick layers at a construction site. The mortarboard accordingly to independent claim 29 includes a generally rectangular sheet having an outer most thickness of at least about 0.5 inches and defining a board continuous upper working surface. The upper working surface is slightly contoured in continuous dished-out manner from each of the sides of said upper working surface across the extent of the upper working surface. Furthermore, the upper working surface is sized and configured to retainably hold an operative quantity of cementitious mortar to be worked by an operator such as by mixing with a trowel or shovel and being impervious to retain moisture in the mortar. The sheet of material defining a cut-out handle portion formed entirely through said sheet material adjacent one edge of said material and size to accept an adult person's hand or fork-lift tine to facilitate carrying of the mortarboard in a generally vertical manner when not in operative use. The mortarboard according to independent claim 44 similarly characterizes the upper working surface as having opposed side edges, and being slightly contoured across the upper working surface in dished-out manner from each of the sides of the upper working surface.

Morsilli describes a hawk adapted to hold the supply of material such as mortar. The hawk includes a base member 10 up turned at one of its ends to provide a wall 12. See Morsilli at column 2, lines 27-30, and Figure 1. According to Morsilli, sidewalls 24 and 26 are provided along the opposite edges of the base member 10 and the forward wall 12, and may be positioned at right angles to the floor 14. See Morsilli at column 2, line 60-65, and Figure 1. Clearly,

Morsilli fails to describe a mortarboard having an upper working surface in continuous dished-out manner from each of the sides of the upper working surface across the extent of the upper working surface according to the presently claimed invention. Morsilli clearly describes the presence of sidewall 24 and 26 that intersect the floor 14 at right angles. Morsilli does not describe a mortarboard having contour lines such as those shown in Figure 1 of the above-identified patent application.

Tabb describes a tray. It appears that the tray includes a flat base and sidewalls along a portion of the flat base wherein the sidewalls intersect the flat base a right angle. Clearly, one having ordinary skill in the art would not have received a suggestion from Tabb to modify Morsilli to achieve a mortarboard having an upper working surface that is slight contoured and continuous dished-out manner from each of the sides of the upper working surface across the extent of the upper working surface according to the presently claimed invention.

In view of the above comments, the claimed invention would not have been obvious from Morsilli and Tabb and withdrawal of this rejection is requested.

Claims 36 and 51 stand rejected under 35 U.S.C. § 103(a) over Morsilli and U.S. Patent No. 5,558,253 to Malvasio. This rejection is traversed.

As discussed above Morsilli fails to describe a mortarboard having an upper working surface that is slightly contoured and continuous dished-out manner from each of the sides of the upper working surface across the extent of the upper working surface according to the presently claimed invention. Malvasio fails to cure this defect in Morsilli. Malvasio describes a taco plate of a circular configuration having a circular base 10, an annular rim 11, and upstanding and space-apart walls 12. The Examiner's attention is directed to Malvasio at column 2, lines 18-23, and Figure 1. It is not seen why one skilled in the art would look to a taco plate according to Malvasio for suggestion to modify a hawk according to Morsilli. Furthermore, even if one were to look to a taco plate according to Malvasio, it is submitted that one would not have received the suggestion to modify Morsilli to achieve the presently claimed invention where the mortarboard has an upper working surface that is slightly contoured in continuous dished-out manner from each of the sides of the upper working surface across the extent of the upper working surface according to the presently claimed invention.

In view of the above comments, withdrawal of the rejection over Morsilli and Malvasio is requested.

Claim 58 stands rejected under 35 U.S.C. § 103(a) over Morsilli and U.S. Patent Application Publication No. 2004/0150236 to Hobel et al. This rejection is traversed.

As discussed above, Morsilli fails to describe a mortarboard having an upper working surface that is slightly contoured in continuous dished-out manner from each of the sides of the upper working surface across the extent of the upper working surface according to the presently claimed invention. Hobel et al. fail to cure the defect in Morsilli. Hobel et al. describe a hawk having a surface 1 that appears to be flat. The Examiner's attention is directed to Hobel et al. at paragraphs 39-41, and 45. Accordingly, one having ordinary skill in the art would not have received a suggestion from Hobel et al. to modify Morsilli to achieve a mortarboard according to the presently claimed invention.

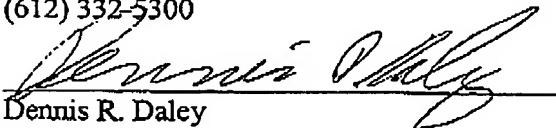
In view of the above comments, withdrawal of the rejection over Morsilli and Hobel et al. is requested.

It is believed that this application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

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